



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/562,059

12/22/2005

Yasuhiro Kajihara

ACT-003

9645

20374 7590 03/23/2009

KUBOVCIK & KUBOVCIK

SUITE 1105

1215 SOUTH CLARK STREET

ARLINGTON, VA 22202

EXAMINER

OLSON, ERIC

ART UNIT

PAPER NUMBER

1623

MAIL DATE

DELIVERY MODE

03/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **Detailed Action**

This action is in response to Applicant's proposed amendment and arguments submitted March 9, 2009, After Final.

3. Applicant's proposed amendment submitted March 9, 2009 will not be entered because it raises new issues for search and consideration. Specifically, the amendment to claims 2 and 8 adds new structural limitations that are not present in the claims previously examined. In order to consider the patentability of these claims it would be necessary to perform an additional search for said structures. In addition, the amendment adds new claims 21-31 without cancelling an equal number of finally rejected claims. Furthermore these newly introduced claims are drawn to therapeutic methods rather than compositions. As no therapeutic methods have been previously examined in the application, examining these claims would present new issues for search and consideration. Finally, even if these claims were entered they would be withdrawn as being directed to non-elected subject matter. The original set of claims examined in the first office action in this application contains no method claims, but rather only claims directed to compositions. Therefore the invention must be restricted to the subject matter of the original claims according to 37 CFR 1.145.

11. Therefore all rejections of record in the previous final office action of September 8, 2008 are maintained in view of the non-entry of the amendment and the reasons of

Art Unit: 1623

record in the previous office action. Because Applicant's arguments depend on the entry of the presented amendment they are not seen to be persuasive to remove any of the rejections of record in the previous office action in view of the non-entry of said amendment.

Applicant's remarks filed on March 9, 2009 after FINAL with respect to the rejections of record in the previous office action have been fully considered but are unpersuasive as discussed in the Final rejection and herein.

No claims are allowed in this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric S. Olson whose telephone number is 571-272-9051. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on (571)272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric S Olson/

Examiner, Art Unit 1623

3/18/2009

/Shaojia Anna Jiang/

Supervisory Patent Examiner, Art Unit 1623